



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

SIEGLER et al.

For: PEDESTRIAN TRAFFIC CONTROL DEVICE HAVING TAPE BELOW TOP OF
POST

Serial No. 10/055,637

Filed: January 23, 2002

Examining Attorney: Ryan M. Flandro

Art Unit 3679

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

DECLARATION OF ERNEST JAMES READING

ERNEST JAMES READING declares as follows:

1. I am one of the two inventors named in British Patent Application No. 2,247,095, filed July 27, 1990, entitled "An Alarm System for a Barrier", (the '095 application), the applicant being my employer, Tensator Limited.

2. As one of the joint inventors, I am thoroughly familiar with the construction of the product shown and described in the '095 application.

3. Referring to Fig. 1 of the '095 application, the slot in post 2, through which belt 4 extends, is not spaced from both ends of the post. In fact, that slot extends to, and through, the upper edge of the post. This is necessary to permit assembly of the reel, upon which the belt is wound, with the post. Since the grip 6 on the end of the belt is larger than

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the width of the slot, the grip cannot be passed through the slot. Consequently, the slot must be open at its upper end to permit the belt to enter the slot while the reel is inserted into the top of the post and the grip remains outside the post.

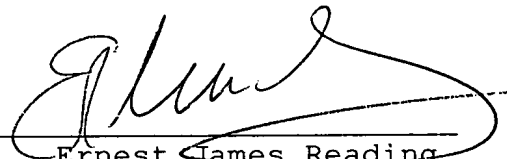
4. The photographs of the alarm-bearing post accompanying this declaration accurately show the product which is the subject of the '095 application. These photos show the slot in the post terminating at the upper edge of the post, so that there is no spacing between the slot and the upper end of the post.

5. I have inspected the drawings of the '095 application, and note that Fig. 1 could be mistakenly interpreted as showing the slot through which belt 4 extends being spaced from the upper end of the post. However, this drawing is a rough schematic and does not accurately reflect the product which was the subject of the '095 application. No doubt this occurred because the invention relates to the alarm mounted on the post, and the showing of the detailed relationship between the slot and the post was not critical to the invention disclosed and claimed.

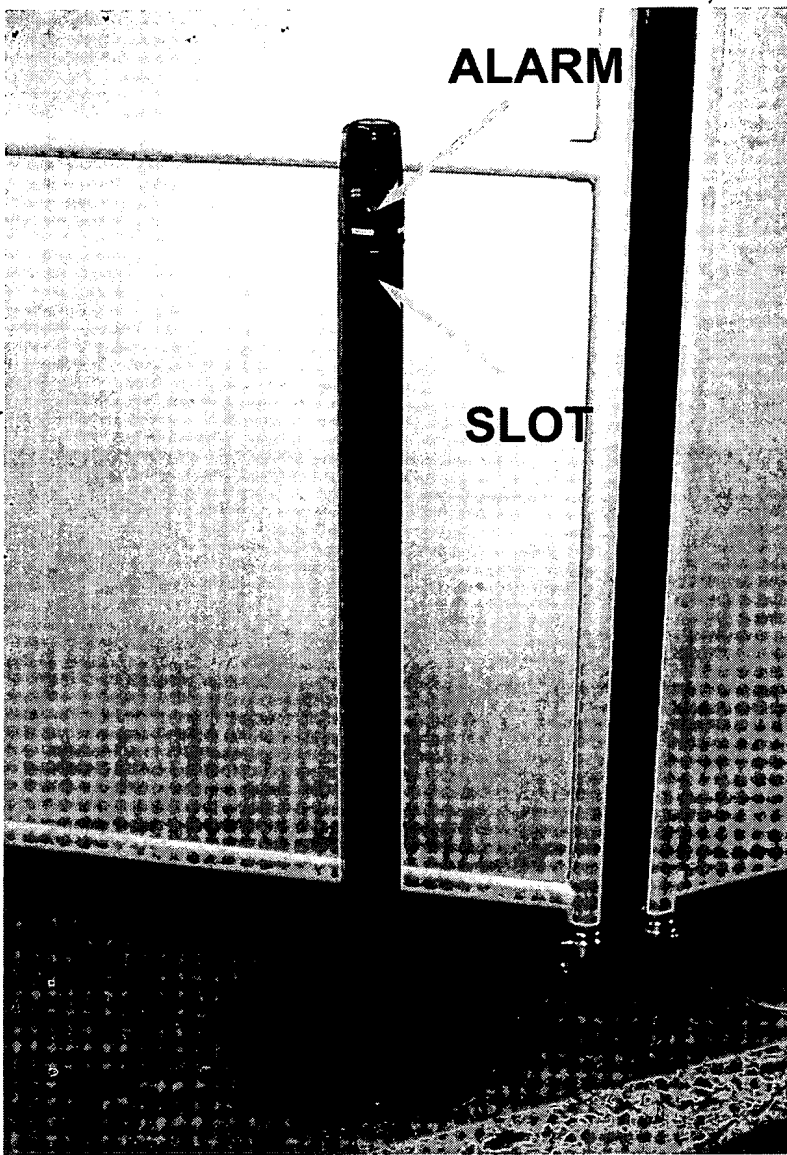
The undersigned Ernest James Reading declares:

that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 6/10/04



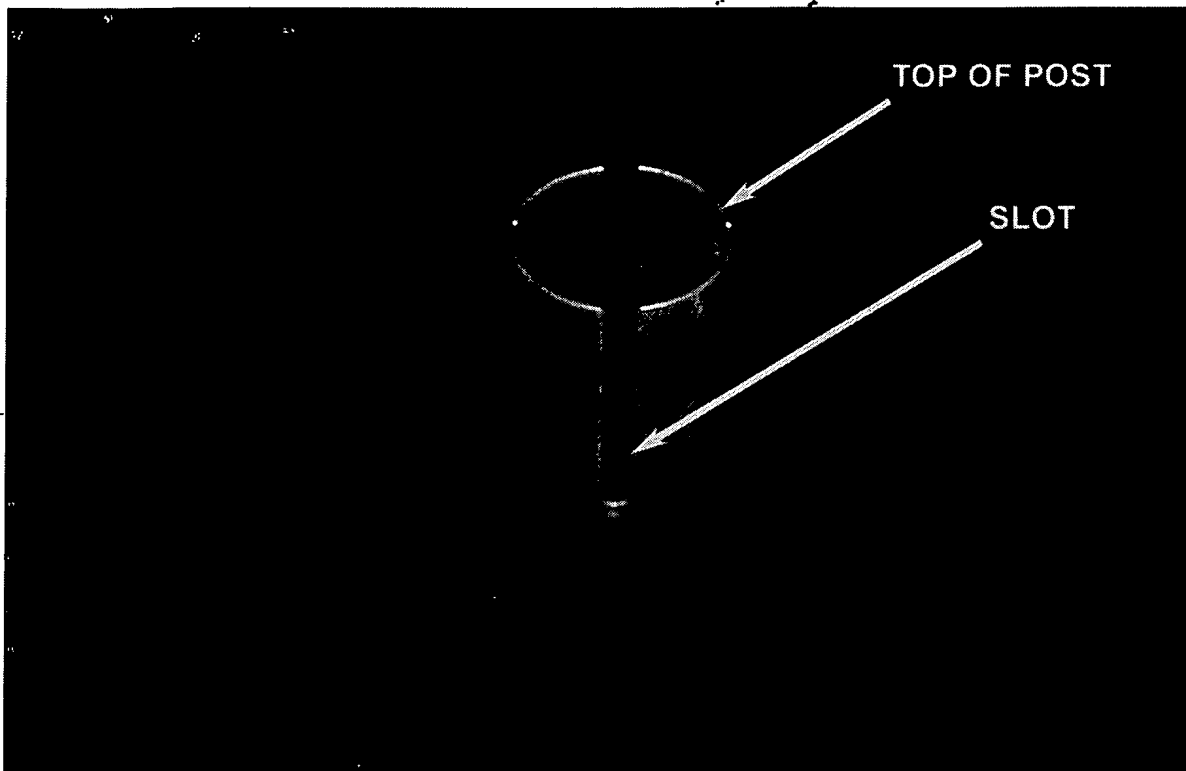
Ernest James Reading



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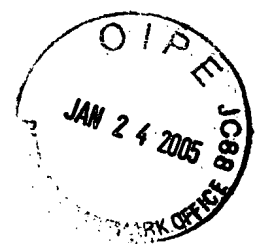
PHOTOGRAPH 1

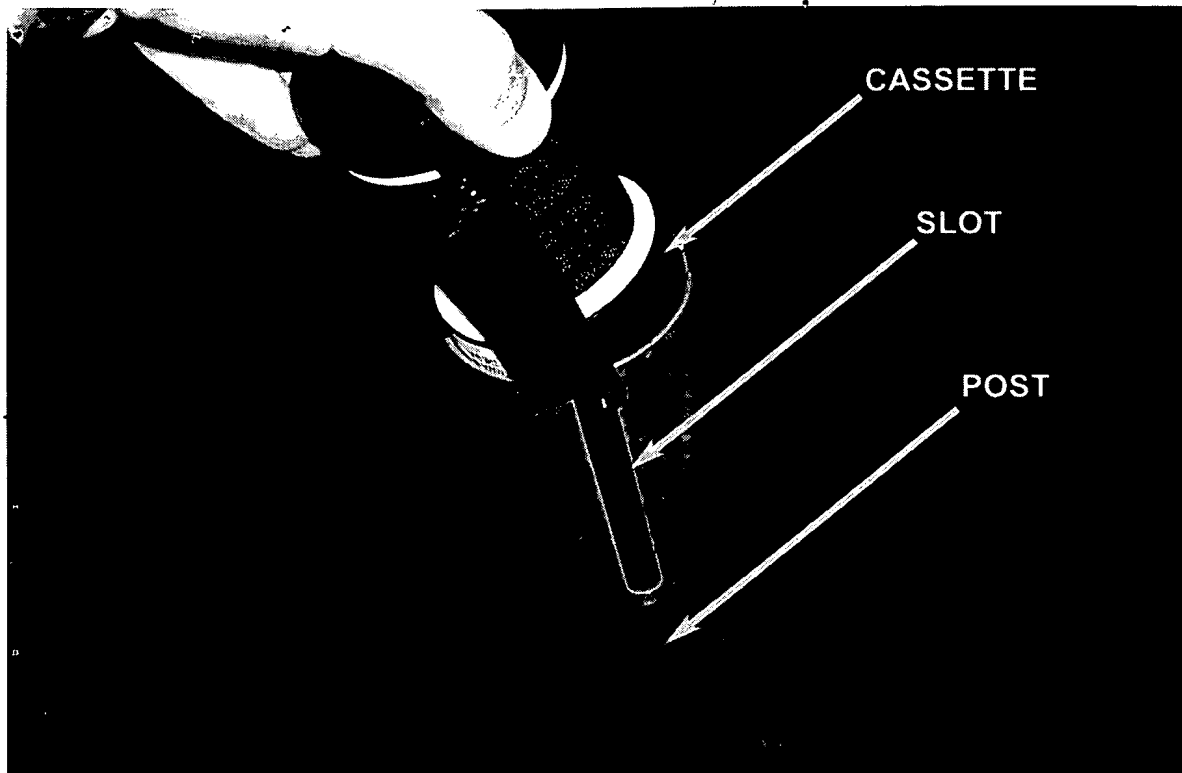


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FILE

PHOTOGRAPH 2

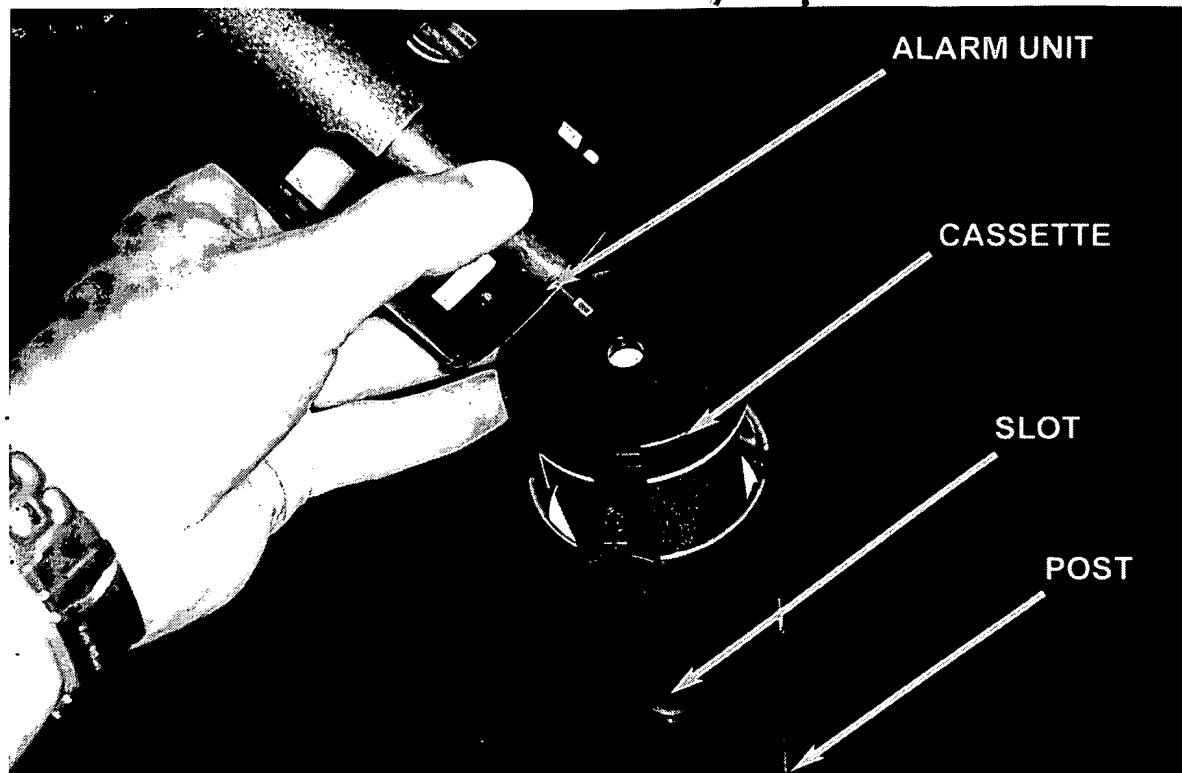




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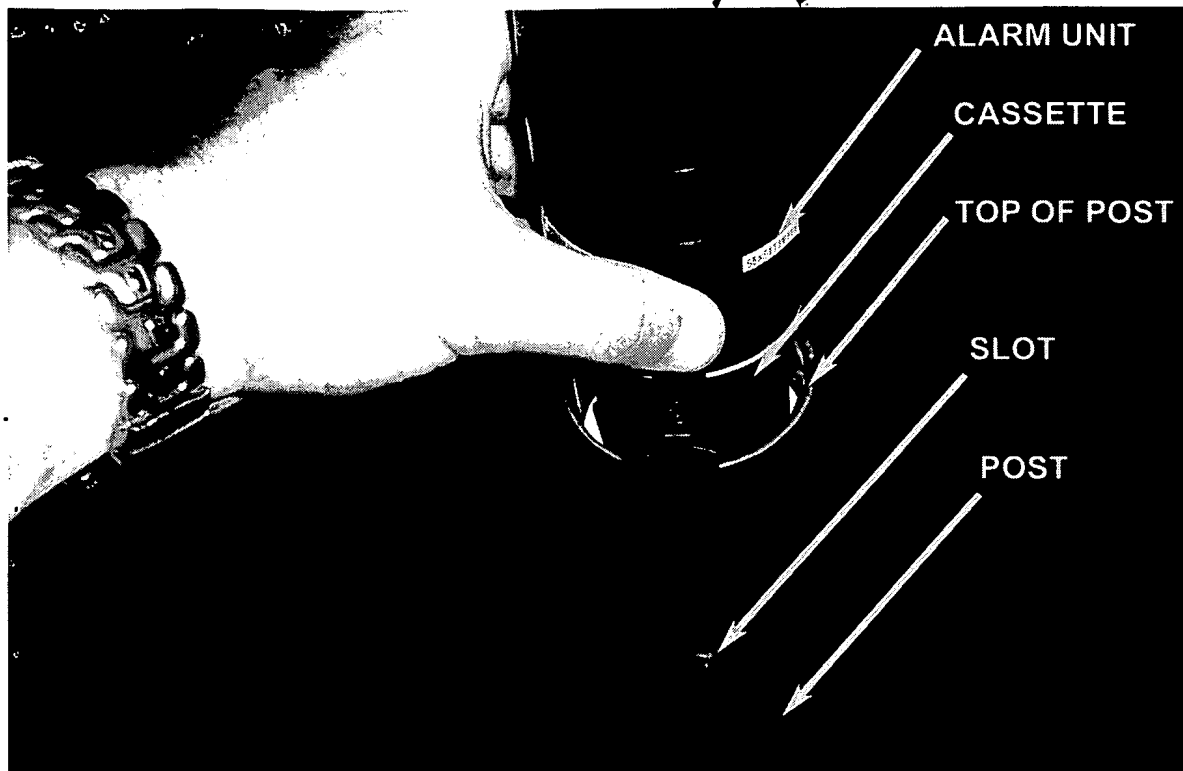
PHOTOGRAPH 3



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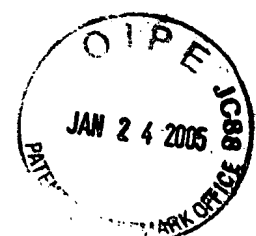


PHOTOGRAPH 4



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PHOTOGRAPH 5



At the top of Page 3 of the office action, the Examiner rejects claims 1, 2, 4, 7 and 8 as unpatentable over the British patent application in the name of Reading, in view of ADA Standards for Accessible Design. It is believed that the Examiner also intended to include Claims 3 and 6 as part of this rejection, since these two claims are also discussed in detail in Section 4 of the office action. It is noted that the Examiner has not rejected Claim 5.

In rejecting Claim 1, in Section 4(a) of the office action, the Examiner, referring to the annotated Fig. 1 of Reading shown at the bottom of Page 4 of the office action, refers to slot A in the post 2 and describes "the slot A being spaced from both ends B, C of the post 2". In this the Examiner is mistaken. In fact, in the post 2 of Reading, slot A extends to the upper edge of the post 2, and therefore is not spaced from the upper end of the post.

Accompanying this response is a "Declaration of Ernest James Reading" one of the joint inventors of the Reading reference cited by the Examiner. Annexed to the three page Reading declaration are five photographs of the post to which the Reading citation is directed. The Reading declaration, Paragraph 3, states that the slot in post 2, through which belt 4 extends, is not spaced from both ends of the post. Reading states that the slot extends "to, and through, the upper edge of

the post." The declaration points out that the slot being open at the upper end of the post is necessary to permit assembly of the reel, upon which the belt is wound, with the post. The reason is that the grip 6 on the end of the belt is larger than the width of the slot, and hence the grip cannot be passed through the slot. Consequently, the slot must be open at its upper end to permit the belt to enter the slot while the reel is inserted into the top of the post and the grip remains outside the post.

Photographs 3, 4, and 5 annexed to the Reading Declaration show the assembly of the reel, or cassette, with the post, as described in the Reading declaration. Moreover, photograph 2 shows the post with 2 slots at its upper end, each slot extending to and through the upper edge of the post.

Finally, the Reading declaration points out that, while Fig. 1 of the cited Reading application could be mistakenly interpreted as showing the slot being spaced from the upper end of the post, the drawing is a rough schematic and does not accurately reflect the product which was the subject of the British application. The location of the slot was not an important element of the invention covered by the British application; and therefore no particular attention was paid to the manner in which the relationship of the slot to the post was illustrated.

It is requested that the Declaration of Ernest James Reading be admitted since it is necessary to show that the slot in the post of Reading is not spaced from the upper end of the post. Moreover, the Reading Declaration was not earlier presented because, until issuance of the office action dated June 23, 2004, the Examiner did not rely upon the Reading British application to reject any claims in this application.

In view of the above discussion, it is submitted that Claim 1 patentably distinguishes from Reading in view of ADA, as applied by the Examiner. Claim 1 calls for a slot in the post between its ends, "the slot being spaced from both ends of the post". It is now clear that Reading does not disclose a slot spaced from both ends of the post.

Claim 1 continues by calling for "both the upper and lower edges of the tape, when extended, being spaced from the upper end of the post at least several inches". Since the slot in the Reading post is at the upper end of the post, it is clear, and may be seen from the photographs attached to the Reading Declaration, that when the cassette is inserted into the upper end of the post, the upper edge of the tape is very close to the upper end of the post, and certainly not several inches below the upper end of the post.

This being the case, there is no suggestion in the Reading reference to adjust the location of the tape, along the length of the post, to satisfy the requirements of ADA. The only way to accomplish this result would be to extend the slot of the Reading reference downwardly along the length of the post. Not only is this alteration of the Reading post not suggested, but it would be detrimental, since extension of the slot would greatly weaken the post.

In view of these comments, it is believed clear that the combination of references relied upon by the Examiner does not show or suggest the subject matter of Claim 1.

Claims 2-6 are all dependent upon Claim 1, and therefore distinguish from the references for the reasons set forth above.

Method Claim 7 calls for "pulling the free end of the tape through the slot and thereafter attaching a finger pull to the free end of the tape". This sequence of steps is not described, or suggested, by the Reading reference. Paragraph 3 of the accompanying Reading Declaration, and photographs 3-5 annexed to that declaration, make it clear that the finger pull, or grip, on the end of the belt or tape is attached to the end of the tape at the time the cassette is assembled with the post. This is permitted because in the Reading post, the slot extends to the upper end of the post. With the present invention the pull cannot be attached to the tape before insertion of the cassette

into the post, since the slot is spaced from both ends of the post.

Claim 8 is dependent upon Claim 7 and therefore distinguishes from the references for the reasons just mentioned.

It is believed that upon further consideration the Examiner will find all the claims in this application allowable, and favorable action is therefore solicited.

Respectfully,

LAWRENCE METAL PRODUCTS, INC.

By Alan H. Lewis
Its Attorney
(212) 588-9800

New York, New York
December 20, 2004

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